

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RIGOBERTO RAMIREZ,

Petitioner,

v.

**DAVID BERKEBILE, Warden,
FCI-Seagoville,**

Respondent.

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Civil Action No. **3:08-CV-1899-L**

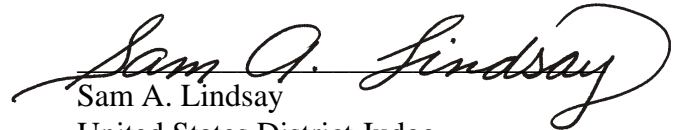
ORDER

Before the court are the Findings, Conclusions and Recommendation of the United States Magistrate Judge, filed December 12, 2008. No objections were filed.

This is a habeas petition brought pursuant to 28 U.S.C. § 2241. The magistrate judge determined that the petition should be denied. Specifically, the magistrate judge determine that Petitioner's claims challenging a Bureau of Prison rule, 28 C.F.R. § 550.58(a)(1)(vi), that categorically excludes certain inmates from early release should be denied because the rule does not violate the Administrative Procedures Act, 5 U.S.C. § 706(2)(A). Although the Ninth Circuit did hold that the rule violates the APA in *Arrington v. Daniels*, 516 F.3d 1106 (9th Cir. 2008), the magistrate judge determined that no court outside the Ninth Circuit has followed *Arrington* and that the decision is contrary to *Lopez v. Davis*, 531 U.S. 230 (2001).

Having reviewed the pleadings, file and record in this case, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions are correct. The magistrate judge's findings and conclusions are therefore **accepted** as those of the court. The court **denies** Petitioner's habeas petition.

It is so ordered this 31st day of December, 2008.


Sam A. Lindsay
United States District Judge